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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,773	07/12/2006	T. Kjetil Froyland	1935-00183	7854
26753 7590 09/01/2009 ANDRUS, SCEALES, STARKE & SAWALL, LLP 100 EAST WISCONSIN AVENUE, SUITE 1100 MILWAUKEE, WI 53202				
			EXAMINER WILLIAMS, MONICA L	
			ART UNIT 3644	PAPER NUMBER
			MAIL DATE 09/01/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/585,773

Applicant(s)

FROYLAND, T. KJETIL

Examiner

MONICA L. WILLIAMS

Art Unit

3644

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-12, 14, 15 and 17 is/are rejected.
- 7) ☒ Claim(s) 19-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 06/30/2008
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 13 and 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species II or III, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 07/06/2009.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "41" has been used to designate both a cut out (page 9) and recesses (page 10). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "77". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any

amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to because in Figure 8 there is a reference numeral that has been cut off and is unidentifiable, and in Figure 10 reference numeral 88 is used to designate two separate features. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9-12, 14-15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Halaunbrenner (3,824,957).

7. In re claim 9, with reference to col.3 lines 1-16 and Figures 4 and 7, Halaunbrenner discloses apparatus comprising: an emigration device (10) to be placed on a sea bed and a rearing device (10'), the emigration device being arranged for engagement with the rearing device, and the emigration device being arranged to be placed between the sea bed and the rearing device, wherein the emigration device comprises at least one cut-out (6) which arranges for crustacea to migrate from a portion of an essentially central cut-out (6) in the rearing device onto the sea bed.

8. In re claim 10, with reference to col.3 lines 51-54, Halaunbrenner discloses wherein the emigration device is provided with at least one support element (15) projecting from a top portion of a base of the emigration device and extending essentially parallel to at least a portion of the central cut-out (6) of the rearing device.

9. In re claim 11, with reference to col.3 lines 51-54, Halaunbrenner discloses wherein the at least one support element (15) is formed by a rod element (hollow cylinder).

10. In re claim 10, with reference to col.3 lines 51-54, Halaunbrenner discloses wherein the emigration device is provided with at least one support element (12) projecting from a top portion of a base of the emigration device and extending essentially parallel to at least a portion of the central cut-out (6) of the rearing device.

11. In re claim 12, with reference to col.3 lines 19-22, Halaunbrenner discloses wherein the at least one support element (12) is formed by an element forming a wall (corner flanges) of the rearing device.

12. In re claim 14, with reference to col.4 lines 4-17 Halaunbrenner discloses wherein the emigration device is provided with a mounting element (15) fixed to the base for the securing of the rearing device to the emigration device.

13. In re claim 15, with reference to col.4 lines 4-17 Halaunbrenner discloses wherein the mounting element (15) is arranged to extend up through a portion of the cut-out (6) of the rearing section, and comprising a clamping device (22) which is adjustably connected to the mounting body, being arranged to exert a force against a portion of the rearing device.

14. In re claim 17, with reference to col.34 lines 6-9 Halaunbrenner discloses wherein outlet openings (areas between 9 and 10, Fig.7) of the emigration device are provided with a protective device (8) providing protection for the crustacea juveniles as they leave the emigration device.

Allowable Subject Matter

15. Claims 19-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following disclose emigration and rearing devices with a central cut-out: Fischer (3,316,881), Parker et al (5,213,058), Rollason (5,248,046), and Wishner (4,007,709).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA L. WILLIAMS whose telephone number is (571)270-3113. The examiner can normally be reached on Mon to Fri 6:00-3:30, Alternate Friday off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael R Mansen/
Supervisory Patent Examiner, Art Unit 3644

MW 08/20/2009